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ABSTRACT

This document highlights the advances made by women in 1970, e.g., the proclamation of Executive Order 11246, which prohibits sex discrimination by federal contractors and became the instrument for attacking such discrimination in the staffing of universities. The council on female status emphasizes the importance of the growing cooperation among organizations and individuals working for equal rights for women. A memo is presented on the proposed equal rights amendment to the United States Constitution, which states that "Equality under the law shall not be denied or abridged by the United States or by any State on account of sex." This memo spells out in detail many of the provisions of the proposed amendment and defends some major objections to these provisions. The council points out that in at least two areas, jury service and criminal penalties, women appear to have made progress in 1970 in invoking the protection of the Fourteenth Amendment. (CK)

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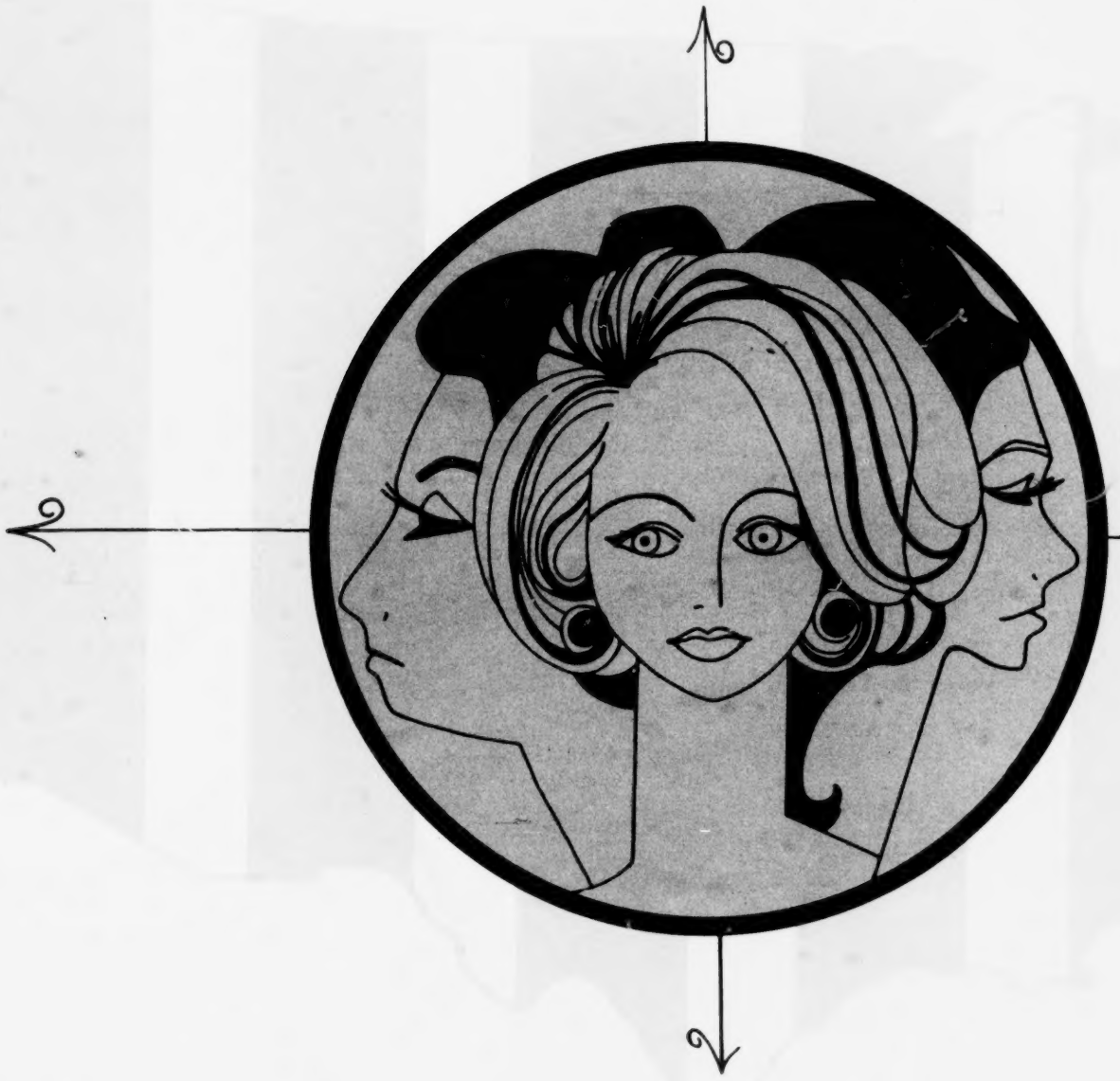

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CITIZENS' ADVISORY COUNCIL ON THE STATUS OF W

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WOMEN in 1970

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Mrs. Catherine East
Executive Secretary

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WOMEN IN 1970

CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN
March 1971

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Washington, D.C. 20402 – Price 40 cents

CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN
Washington, D.C. 20210

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We are honored to submit, herewith, our first report, the fifth for the Council. The Council has endeavored, in accordance with your direction upon our appointment, "to contribute toward improving the status of women through proper use of the resources and activities of the Federal Government. . . ." Specifically we have sought to provide leadership and to further the rising aspirations of women today to participate fully in American life.

Within the past months, the Council has forwarded to you and to the Interdepartment Committee on the Status of Women recommendations resulting from its studies. The Council concentrated its attention on subjects of most immediate concern: equal legal rights, maternity leave for employed women, equal employment opportunity, part-time employment, child development programs, and occupational counseling of young girls and of mature women seeking to return to the labor market.

The Council endorsed the equal rights amendment and published three papers on the subject.

The Council concluded with respect to maternity leave that absence from employment due to childbirth should be treated as a temporary disability. The Council recommended that Federal policy should be to advance sick leave for purposes of childbirth as is now done by the Federal Government for other temporary disabilities.

The Council also recommended greater enforcement authority for the Equal Employment Opportunity Commission and opposed discrimination by sex in retirement and pension plans.

The Council stressed the need for improving the quality of occupational counseling of young girls and advanced several ideas to make easier the mature woman's return to the labor market. The need for a slow-down in population growth directly relates to these counseling needs.

The first section of our report outlines the 1970 highlights of the women's movement nationally, and the second describes the Council's recommendations and other activities. We believe that the report has information relevant to your legislative program and is worthy of consideration by all leadership seeking to improve the status of women.

Your confidence in the Council, expressed when you met with its members in the White House at its first meeting, has been a source of strength and inspiration in its work to advance the cause of women. We appreciate the trust placed in us and the opportunity to continue serving your Administration and to be of service to our country.

Respectfully,

Jacqueline G. Gutwillig

JACQUELINE G. GUTWILLIG
Chairman

CONTENTS

Page

'70 Highlights 1

Recommendations and Activities 4

Equal Rights Amendment 4
Equal Employment Opportunity Commission Enforcement Powers 4
Retirement and Pension Plans 4
Maternity Leave 4
Part-Time Work Opportunities 5
Statistical Data on Education 5
Child Development Centers 5
Occupational Counseling 5
Mature Women and the Labor Market 5
Public Service Activities 6
Acknowledgments 6

Appendix A—A Memorandum on the Proposed Equal Rights Amendment to the United States Constitution 9

Appendix B—The Equal Rights Amendment—What It Will and Won't Do 17

Appendix C—Statement on Bayh Substitute and Ervin Amendment to the Equal Rights Amendment 19

Appendix D—Job-Related Maternity Benefits 20

Appendix E—Report of the Subcommittee on Counseling and Continuing Education 22

'70 HIGHLIGHTS *

The year 1970, the 50th anniversary of the women's suffrage amendment, was marked by a new solidarity among women and a greater determination to achieve economic, legal, and social equality. The new spirit was symbolized by celebrations on August 26th by women's groups representing nationwide aspirations of women today. The positive and serious responses to women's demands from Government, universities, industry, churches, and the media resulted in definite advances.

Executive Order 11246, which prohibits sex discrimination by Federal contractors, became the instrument for attacking such discrimination in staffing of universities. Complaints on hiring practices of universities were filed with the Department of Health, Education, and Welfare as fast as data were gathered by local faculty and student organizations. At the close of the year several universities were under orders from the Department to adopt affirmative action programs designed to eliminate sex discrimination.

The Justice Department for the first time filed suit to give women equal employment rights under Title VII of the Civil Rights Act of 1964. The suit against Libbey-Owens-Ford Co. and the United Glass and Ceramic Workers was settled by a consent decree, requiring that women have work opportunities in all departments and providing them with redress for past illegal restrictions on such opportunities.

The Justice Department also asked the Supreme Court to accept for review the case of *Ida Phillips* v. *Martin Marietta Corporation,* which raised the question whether the refusal of an employer to consider the employment of women with pre-school age children was in violation of Title VII of the Civil Rights Act of 1964. The Justice Department also appeared for the plaintiff as amicus curiae.

The Labor Department won a landmark equal pay case in *Shultz* v. *Wheaton Glass Company* (421 F. 2d 259). The 3rd Circuit Court of Appeals supported the Government's interpretation that jobs need only be substantially equal in order for the equal pay law to be applicable.

* The Council does not claim that these '70 highlights are the results of its activities alone; many forces, groups, and individuals working for many years are claimants to the progress achieved in 1970.

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achieved in 1970.

In fiscal year 1970 over $6 million was found due under the Federal equal pay law to nearly 18,000 employees, almost all of whom were women. The Department of Labor sponsored about 35 briefing conferences on equal pay law throughout the country. These conferences were attended by representatives of management, labor, women's organizations, trade associations, civic groups, the legal profession, and the media.

The executive branch of the Federal Government endorsed congressional bills H.R. 466 and H.R. 468, designed to give the same fringe benefits to husbands and children of federally employed women, civilian and military, as are received by the wives and children of federally employed men. H.R. 468, which gives widowers of female Federal employees a survivorship annuity under the same conditions as widows of male employees, was incorporated in another bill and enacted into law. These bills have a more than personal significance in that they reject the traditional concept of family economic structure as an adequate basis for provision of benefits for the growing number of modern families in which both husband and wife are employed. These bills are based on the reality that the standard of living in such families is determined by total income, and that the wife is more than a "pin money" or luxury earner.

In the year 1970 also, the President promoted three women to the rank of general. They are Director, Women's Army Corps; Chief, Army Nurse Corps; and Director, Women in the Air Force. The elimination of legal restrictions on advancement of women in the military services has been an objective of the Council since its establishment in 1963.

The Women's Bureau sponsored a 50th Anniversary Conference attended by the most widely representative group of men and women ever assembled at such a conference. In addition to the persons typically attending such a meeting, young women were in attendance, also women from all minority groups, union women, and women on welfare. The conference adopted many recommendations, among them endorsement of the equal rights amendment. In preparation for the conference, the White House released the report of the President's Task Force on Women's Rights and Responsibilities and published Labor Department guidelines for enforcement of Executive Order 11246.

The formation of two new national organizations has testified to the growing solidarity among women. The Interstate Association of State Commissions on the Status of Women will enable these commissions to increase their effectiveness at home and to exercise a greater influence on national policy. The National Conference of Women Law Students provides a forum and a means of communication for young women law students and shows promise to be a most effective mover within the establishment in bringing about equality of rights under the law.

By far the most important development of the year was the concerted effort of a wide spectrum of women's organizations to secure passage of the equal rights amendment. Some individual men, particularly lawyers and law professors, and also some mixed groups who formerly opposed the equal rights amendment gave valuable support, after restudying the issues.

In February, the Citizens' Advisory Council on the Status of Women endorsed the equal rights amendment, sensing that the time had come to advance the cause of justice and equality for men and women. A definitive legal paper on the subject was at this point published by the Council entitled "The Proposed Equal Rights Amendment to the United States Constitution: A Memorandum" (Appendix A).

The Senate Subcommittee on Constitutional Amendments held hearings on the equal rights amendment (S.J. Res. 61) on May 5th, 6th, and 7th. The endorsement of the equal rights amendment by the President's Task Force on Women's Rights and Responsibilities was made public in early June.

During the Women's Bureau Conference, also in June, Congresswoman Martha Griffiths filed a petition to discharge the Judiciary Committee of the House of Representatives from further consideration of the amendment, as it had not received any consideration during the previous 20 years. The discharge petition was successful, and on August 10 House Joint Resolution 264 was debated and passed by a vote of 350 to 15.

After 47 years of effort success seemed certain in the Senate since there were 81 sponsors of Senate Joint Resolution 61 and the hearings had been held in May. Opp in forcing further hearing election time when many Resolution 264 came befor ment No. 1049 was added the draft as well as an a the public schools.

On October 14 a substitute was grounded in the 14th a

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The "Equal Rights" Ame Consitutional Amendmen Senate, 91st Cong., 2d se

Equal Rights 1970: Hea U.S. Senate, 91st Cong. Price $1.75.

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had been held in May. Opponents of the measure, however, succeeded in forcing further hearings,* helping to delay action until close to election time when many Senators were campaigning. House Joint Resolution 264 came before the Senate in early October, and amendment No. 1049 was added to permit Congress to exclude women from the draft as well as an amendment No. 1048 relating to prayer in the public schools.

On October 14 a substitute amendment No. 1062 was proposed which was grounded in the 14th amendment.

The Council prepared a paper analyzing the substitute amendment (Appendix C). It was concluded that the 14th amendment wording left too many loopholes for differences in treatment under law. It was concluded further that any wording which exempted women from the draft would be self-defeating in that any exception to the principle of equality under law could be used to justify additional exceptions.

Since the interested women's groups did not endorse the substitute, its adoption was not urged, and no further action was taken by the Senate.

At the close of the year the leading women officials of the Democratic and Republican parties and other women's groups most actively concerned with the equal rights amendment were coordinating plans to work for successful passage during the 92d Congress of the equal rights amendment, as worded in House Joint Resolution 264.

It must be noted that some women's organizations and individuals active in advancing women's status do not support the equal rights amendment.

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* The May and September hearings are most valuable source books of information about the status of American women, available from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402:

The "Equal Rights" Amendment: Hearings before the Subcommittee on Consitutional Amendments of the Committee on the Judiciary, U.S. Senate, 91st Cong., 2d sess. on S.J. Res. 61. Price $3.25.

Equal Rights 1970: Hearings before the Committee on the Judiciary, U.S. Senate, 91st Cong., 2d sess. on S.J. Res. 61 and S.J. Res. 231. Price $1.75.

In June and July numerous women leaders and Government officials testified on sex discrimination at the hearings before the Special Subcommittee on Education and Labor on section 805 of H.R. 16098. The report of the hearings will be a significant contribution to the growth of knowledge of the status of women in modern American life.*

Widespread interest in child development programs was evidenced at hearings before subcommittees of both the House and the Senate on comprehensive child care bills. The White House Conference on Children voted as one of its overriding concerns "comprehensive, family oriented child development programs, including health service, day care and early childhood education."

Another encouraging development of the year 1970 was the widened interest of business and industry in ending sex discrimination. Task forces had been formed in several of the larger companies, and trade associations had included in their programs discussions of sex discrimination. For example, a conference on women in industry was held at Mary Baldwin College, sponsored by the college, American Can Company, American Telephone and Telegraph Company, General Electric Company, International Paper Company, and the Women's Bureau of the Department of Labor.

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* Discrimination Against Women: Hearings be
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The most disturbing development of the past year was the rejection of the Constitution of the United States and other legal institutions by a small number of women. We of the Council and most other women share the conviction that our society, for all its weaknesses and imperfections, is the most flexible and is open to change and advancement. We know that progress within our governmental structure can be won by hard work and that only rights won within a representative system are lasting.

In concluding our remarks concerning the highlights of 1970, the members of the Council reemphasize the importance of the growing cooperation among organizations and individuals working for our common cause. We are learning that differences in style are not bars to working together and indeed can contribute positively to achievement. Many women are enjoying for the first time the mutual respect and satisfaction that comes from successful endeavors with other women. If this trend continues, it could well be the most far reaching social development of this decade.

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* Discrimination Against Women: Hearings before the Special Subcommittee on Education of the Committee on Education and Labor, House of Representatives, 91st Cong., 2d sess. on section 805 of H.R. 16098. In two parts. (Copies may be obtained by writing your Senator or Congressman.)

RECOMMENDATIONS AND ACTIVITIES

Equal Rights Amendment

The Council endorsed the equal rights amendment in February 1970 upon recommendation of its subcommittee studying the legal status of women. The Council published a legal memorandum on the amendment (Appendix A), March 1970, and a second paper "The Equal Rights Amendment—What It Will and Won't Do" (Appendix B), August 28, 1970. The latter was in response to many requests for a shorter paper, organized by the types of laws which would be affected by the equal rights amendment.

The Council released a statement on October 29, 1970, regarding the substitute amendment based on the 14th amendment and the amendment to permit exclusion of women from the draft (Appendix C).

Demands on Council members to speak, give interviews, and send informational materials on the subject of the equal rights amendment have been numerous throughout the year.

Equal Employment Opportunity Commission Enforcement Powers

The Council found that Title VII of the Civil Rights Act of 1964 has been a valuable ally in promoting equal opportunity for women in employment. The lack of adequate enforcement authority for the Equal Employment Opportunity Commission, however, means that the main burden of enforcement falls on the individual complainant. If conciliation efforts of the Commission fail, as they have in over half the cases in which the Commission has found that discrimination occurred, the individual must pursue redress in the courts. Greater enforcement authority would result in greater cooperation by employers and unions during the conciliation stages of a complaint. The Council, therefore, recommended greater enforcement authority for the Commission.

Retirement and Pension Plans

The Council opposed any legislation permitting discrimination on the basis of sex in retirement and pension plans.

Maternity Leave

The Interdepartmental Committ
the Council to consider the pai
cluded in a report titled "Repo
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A statement of principle was ad
1970, and reads as follows:

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Also the Council made the follo
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—While agreeing that ther
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—Recommends that sick l
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ACTIVITIES

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Maternity Leave

The Interdepartmental Committee on the Status of Women requested the Council to consider the paid maternity leave recommendation included in a report titled "Report of the Subcommittee on Maternity Benefits" (for Federal employees), dated November 1969. The project group assigned to study employment for women examined the report and Federal policies and proposals.

A statement of principle was adopted by the Council on October 29, 1970, and reads as follows:

> Childbirth and complications of pregnancy are, for all *job-related purposes,* temporary disabilities and should be treated as such under any health insurance, temporary disability insurance, or sick leave plan of an employer, union, or fraternal society. Any policies or practices of an employer or union, written or unwritten, applied to instances of temporary disability other than pregnancy should be applied to incapacity due to pregnancy or childbirth, including policies or practices relating to leave of absence, restoration or recall to duty, and seniority.
>
> No additional or different benefits or restrictions should be applied to disability because of pregnancy or childbirth, and no pregnant woman employee should be in a better position in relation to job-related practices or benefits than an employee similarly situated suffering from other disability.

Also the Council made the following comments and recommendations regarding maternity leave for Federal employees directly to the Under Secretary of Labor:

—While agreeing that there was a need for additional income protection for Federal employees, both men and women, particularly those with short service, the Council opposes a proposed special benefit system for maternity leave only.

—Recommends that sick leave be advanced for purposes of childbirth or complications of pregnancy under the same conditions as it would be advanced for any other temporary disability.

—Recommends withdrawal of the Federal Personnel Manual guidelines for maternity leave.

The Council was requested, additionally, from the private sector for policy recommendations concerning maternity leave for employed women. The review was then broadened to include private employment practices and a public paper, including the Statement of Principle, was published by the Council, setting forth the factors leading to the Council's conclusions (Appendix D).

Part-Time Work Opportunities

The Council recommended to the Civil Service Commission that a survey be made of the Federal organizations using part-time employees with a view to publishing descriptions of the methods used and evaluating the results of such programs.

Part-time employment can be an advantage to management. It is a means of utilizing women with professional and managerial skills in short supply whose family responsibilities preclude full-time employment. The Council also noted that retired men and women with valuable skills and full-time students would also benefit from more part-time work opportunities.

The Council believed that making employers more aware of the methods being used and the advantages of existing programs would stimulate the growth of part-time employment, providing needed employees to industry and a means of service for many men and women who otherwise could not contribute to society.

Statistical Data on Education

The Council recommended that the Office of Education collect, tabulate, and publish by sex all data relating to persons. The Higher Education General Information Survey (HEGIS) should collect and publish data on teaching personnel in higher education by sex so that the facts as to the differences in numbers, rank, and salaries between men and women engaged in professional positions in higher education are known.

Child Development Centers

The Council's project group studying day care recom
Council that volunteer agencies be made more aware o
be encouraged to further promote day care programs.
use of existing facilities, such as church and school bu

The development of high quality child development
great concern to the Government as well as private or
individuals. The Council will continue its concern fo
educational programs and facilities.

Occupational Counseling

The Council recommended that the Office of Educati
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Tradition and the mass media depress girls' aspiration
into a limited number of low-paying occupations. Mu
tional counseling which girls and women receive is
obsolete. It fails to recognize the importance of thre
(1) the multiple roles of women in modern society
married women work), (2) the emergence of broad
horizons for women, and (3) the strategic value to
well as to a young boy of long-range planning and
job futures consistent with individual abilities and int
to control population and the current surplus of
secondary school teachers are among the factors t
urgency to the need for better counseling now.

The Council also noted a need for broadening the
disadvantaged child, both urban and rural, beyond
environment so that he is aware that there are many
in today's economy about which his parents and imm
may know little.

Appendix E lists ten specific recommendations on cou

Mature Women and the Labor Market

The Council at its February and June meetings endo
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Child Development Centers

The Council's project group studying day care recommended to the Council that volunteer agencies be made more aware of this need and be encouraged to further promote day care programs, making greater use of existing facilities, such as church and school buildings.

The development of high quality child development programs is of great concern to the Government as well as private organizations and individuals. The Council will continue its concern for these needed educational programs and facilities.

Occupational Counseling

The Council recommended that the Office of Education, the Department of Labor, and concerned professional groups should improve the quality and quantity of occupational counseling available to girls. Tradition and the mass media depress girls' aspirations and steer them into a limited number of low-paying occupations. Much of the vocational counseling which girls and women receive is inadequate and obsolete. It fails to recognize the importance of three major factors: (1) the multiple roles of women in modern society (40 percent of married women work), (2) the emergence of broader employment horizons for women, and (3) the strategic value to a young girl as well as to a young boy of long-range planning and preparation for job futures consistent with individual abilities and interests. The need to control population and the current surplus of elementary and secondary school teachers are among the factors that give added urgency to the need for better counseling now.

The Council also noted a need for broadening the horizon of the disadvantaged child, both urban and rural, beyond his immediate environment so that he is aware that there are many types of work in today's economy about which his parents and immediate associates may know little.

Appendix E lists ten specific recommendations on counseling.

Mature Women and the Labor Market

The Council at its February and June meetings endorsed encouragement of local and national groups to establish a nongovernmental,

three-point program, aimed at three different educational levels attained by women:

—For women with grade school education or less, establishment of programs to combat illiteracy. An example is the excellent work being done by the public libraries in the inner core city area of Cleveland.

—For women who are high school graduates, establishment of college consortia, especially involving junior or community colleges, which offer one or two year courses leading to a given occupation, as for example, X-ray technician and library assistant. The proposal emphasizes community college involvement, as they are geographically more widespread than universities, and a consortium approach so that the greatest variety of courses as possible may be offered.

—For women who have attended college, encouragement of one-day workshops describing the available alternatives in vocational and volunteer activities in a given geographical area. An example is the "Second Careers for Women" workshop held at Stanford University, May 2, 1970. Seven hundred women attended and 90 volunteer panelists participated.

Public Service Activities

Council members have responded generously to the many requests by press, TV, and radio for speeches, lectures, and interviews on "status of women." Members have also served on panels and committees concerned with women's status.

Council members have addressed men's and women's local service, political, and religious clubs and State conventions of such groups, chambers of commerce, university conferences and faculty groups, State and city status of women commissions, bar associations, Federal Government executives, high school assemblies, oil industry executives, and State and local chapters of the League of Women Voters, National Federation of Business and Professional Women's Clubs, General Federation of Women's Clubs, American Association of University Women, National Asso
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Women, National Association of Women Deans and Counselors, and the Junior League. At the national level, the Council Chairman and members have testified at congressional hearings, spoken at Women's Bureau conferences, the Republican Women's National meeting, a Conference of Career Women Leaders, the Conventions of the National Federation of Business and Professional Women's Clubs, Women's Association of Allied Beverage Industries, and Women Pharmacists.

Filling requests from the public and the Congress for individual and bulk requests for papers published by the Council and for the report of the Presidential Task Force on Women's Rights and Responsibilities has taken up much of the time of the Council's small staff.

Approximately 25,000 copies of the Council's memorandum on the equal rights amendment have been distributed; 10,000 copies of the paper "The Equal Rights Amendment—What It Will and Won't Do"; and 20,000 copies of "A Matter of Simple Justice."

In addition, the staff has filled more than 100 requests from the press and other media representatives for general information and publications on the status of women. There have been countless requests for earlier publications of the Council and for published materials on various subjects collected by the Council staff over a period of years. Many of the requests requiring personal answer or selection and reproduction of materials could not be met by the limited staff.

Acknowledgments

The Council is especially indebted to the President for the encouragement and support given the Council and for the help given by the staff members of the Executive Office and the Office of the Vice President. The Council also gratefully acknowledges the significant contributions to its projects and the fine cooperation enjoyed from other Government officials and departments—especially the Departments of Labor; Justice; Commerce; Defense; and Health, Education, and Welfare; the Equal Employment Opportunity Commission; and the Civil Service Commission. Their advice, experience, and technical assistance has been of immeasurable benefit to the Council members in their deliberations and resultant decisions.

Special appreciation is given for the advice and assistance received from Honorable Patricia Hitt, Assistant Secretary of Health, Education,

and Welfare; Honorable Elizabeth Duncan Koontz, Director of the Women's Bureau, Department of Labor; and Dr. Jean Spencer, Special Assistant to the Vice President. Miss Mary Eastwood of the Department of Justice and Miss Jean Wells, Mrs. Isabelle Streidl, and Mr. Arthur Besner of the Women's Bureau, Department of Labor, gave valuable technical assistance to our project groups in drafting work papers and furnishing information.

To all the guests who appeared before the Council, we take this opportunity to thank them publicly:

Miss Lucy De Carlo, Chief of the State and Community Grant Program, Equal Employment Opportunity Commission

Dr. Lincoln H. Day, Associate Professor of Public Health and Sociology, Yale University (now with Statistical Office, United Nations)

Miss Anne Draper, Research Associate, AFL-CIO

Miss Betsy Erb, Assistant to Deputy Assistant Secretary of Health, Education, and Welfare

Miss Melany Gibson, Federal Extension Service, Charles County, Maryland

Mrs. Vera Glaser, Correspondent, Knight Newspapers

Honorable Martha W. Griffiths, U.S. House of Representatives

Honorable Patricia Hitt, Assistant Secretary of Health, Education, and Welfare

Mr. James Hunt, Aetna Insurance and Casualty Company

Miss Patricia King, Special Assistant to Chairman, Equal Employment Opportunity Commission

Honorable Elizabeth Duncan Koontz, Director, Women's Bureau, Department of Labor

Honorable Elizabeth Kuck, Commissioner, Equal Employment Opportunity Commission (now with International Harvester)

Mrs. Therese W. Lansburgh, President, Day Care and Child Development Council of America, Inc.

Mrs. Martha L. Mason, Federal Ex
County, Maryland

Dr. Ruth Oltman, Staff Associate, H
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Dr. Ruth Osborn, Director, Con
Women, George Washington Univ

Mr. Robert E. Patricelli, Deputy Un
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Welfare

Mr. William W. Scott, Attorney at
Rill, and Edwards

Honorable George P. Shultz, Sec
Director, Office of Management an

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Miss Alice M. Stewart, Federal Ext
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Mr. Jule Sugarman, Children's B
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Mr. Timothy Wirth, Deputy Assista
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Members of the youth panel were:

Miss Margaret Cooper, George Was

Miss Robin Landi, Western High Sc

Miss Nora Pfenig, University of Ma

Mr. David Nadler, George Washingt

Members of the maternity leave panel w

Mr. Jack De Sipio, Civil Service C

Mr. Robert Hobson, Office of Feder
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Mr. Morton Horwitz, Civil Service C

Miss Judith Jenkins, Office of Feder
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Dr. Ruth Oltman, Staff Associate, Higher Education, American Association of University Women
Dr. Ruth Osborn, Director, Continuing Education for Women, George Washington University
Mr. Robert E. Patricelli, Deputy Under Secretary for Policy Coordination, Department of Health, Education, and Welfare
Mr. William W. Scott, Attorney at Law, Collier, Shannon, Rill, and Edwards
Honorable George P. Shultz, Secretary of Labor (now Director, Office of Management and Budget)
Honorable Laurence H. Silberman, Under Secretary of Labor
Miss Alice M. Stewart, Federal Extension Service, Department of Agriculture
Mr. Jule Sugarman, Children's Bureau, Department of Health, Education, and Welfare (now Director, New York City Human Resources Administration)
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Mr. Robert Hobson, Office of Federal Contract Compliance, Department of Labor
Mr. Morton Horwitz, Civil Service Commission
Miss Judith Jenkins, Office of Federal Contract Compliance, Department of Labor
Mrs. Evangeline Swift, Equal Employment Opportunity Commission

Appendix A

A MEMORANDUM ON THE PROPOSED EQUAL RIGHTS AMEN TO THE UNITED STATES CONSTITU

March 1970

The proposed equal rights amendment to the U.S. Constitution would provide that "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex," and would authorize the Congress and the States to enforce the amendment by appropriate legislation.[1]

The purpose of the proposed amendment would be to provide constitutional protection against laws and official practices that treat men and women differently. At the present time, the extent to which women may invoke the protection of the Constitution against laws which discriminate on the basis of sex is unclear. The equal rights amendment would insure equal rights under the law for men and women and would secure the right of all persons to equal treatment under the laws and official practices without differentiation based on sex.

Joint resolutions proposing that the equal rights amendment be approved for submission to the States for ratification have been sponsored by 75 Senators and 225 Members of the House of Representatives in this (91st) Congress (as of March 11, 1970). Adoption of the amendment would require a ⅔ vote of both Houses of Congress and ratification by ¾ of the States. Thus there are already more than the necessary number of Senators who are committed to support the amendment for its approval by the Senate. These joint resolutions are currently pending in the respective Senate and House Judiciary Committees.

The Citizens' Advisory Council on the Status of Women, at its meeting February 7, 1970, endorsed the equal rights amendment, adopting the following resolution:

> The Citizens' Advisory Council on the Status of Women endorses the proposed Equal Rights Amendment to the

[1] See, e.g., S.J. Res. 61, 91st Cong., 1st Sess.

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United States Constitution and recommends that the Interdepartmental Committee on the Status of Women urge the President to immediately request the passage of the proposed Equal Rights Amendment by the Congress of the United States.

The Council's recommendation was transmitted to the President on February 13, 1970.

History of the Equal Rights Amendment

Resolutions proposing an equal rights amendment have been introduced in every Congress since 1923. Hearings were held by the House and Senate Judiciary Committees in 1948 and 1956, respectively.[2] The amendment has been repeatedly reported favorably by the Senate Judiciary Committee, most recently in 1964 (S. Rept. No. 1558, 88th Cong., 2d Sess.), and has twice passed the Senate, in 1950 and 1953.

Both times it was passed, however, with the so-called "Hayden rider," which provided that the equal rights amendment "shall not be construed to impair any rights, benefits, or exemptions now or hereafter conferred by law, upon persons of the female sex." [3] Both times the rider accomplished its purpose of killing the proposed amendment since, as the Senate Judiciary Committee has noted, the rider's "qualification is not acceptable to women who want equal rights under the law. It is under the guise of so-called 'rights' or 'benefits' that women have been treated unequally and denied opportunities which are available to men." (S. Rept. No. 1558, *supra*)

[2] Hearings on the Equal Rights Amendment to the Constitution and Commission on the Legal Status of Women, House Committee on the Judiciary, Subcommittee No. 1, 80th Cong., 2d Sess. (1948); Hearings on Equal Rights, Senate Committee on the Judiciary, Subcommittee on Constitutional Amendments, 84th Cong., 2d Sess. (1956).

[3] See 96 Cong. Rec. 872–3 (1950); 99 Cong. Rec. 8954–5 (1953).

Since the proposed equal rights amendment has failed to pass Congress for the past 47 years, it may appear to be a "loser," although admittedly it took women more than 50 years to secure the adoption of the 19th amendment. However, a revival of the feminist movement has occurred during the past four years and it is greatly increasing in momentum, especially among younger women. Thus the demand for equal rights and support for the amendment is becoming more widespread, with a corresponding increase in likelihood of early adoption of the amendment.

Laws Which Discriminate on the Basis of Sex

A number of studies have been made in recent years by the President's Commission on the Status of Women, the Citizens' Advisory Council on the Status of Women, and State commissions on the status of women concerning the various types of laws which distinguish on the basis of sex.[4] Opposition to the equal rights amendment in the past has been based in part on "fear of the unknown," *i.e.*, lack of information concerning the types of laws which distinguish on the basis of sex and would therefore be affected by the amendment. Further delay in approving the amendment thus need not await any further study of the kinds of laws that discriminate on the basis of sex.

These studies have shown that numerous distinctions based on sex still exist in the law. For example:

1. State laws placing special restrictions on women with respect to hours of work and weightlifting on the job;
2. State laws prohibiting women from working in certain occupations;
3. Laws or practices operating to exclude women from State colleges and universities (including higher standards required for women applicants to institutions of higher learning and in the administration of scholarship programs);
4. Discrimination in employ ments;
5. Dual pay schedules for teachers;
6. State laws providing for a tain circumstances, to ex
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11. State laws providing that of the minor children;[6]
12. Different ages for males a (b) age for marriage, (support, and (d) juvenile
13. Exclusion of women fro Selective Service Act of
14. Special sex-based exempt juries;
15. Heavier criminal penalt male offenders committi

Although it is possible that these a tually be corrected by legislation, l substitutes for fundamental constitu tion. Any class of persons (i.e., w invoke the protection of the Const

[4] See especially, *Report of the Committee on Civil and Political Rights*, President's Commission on the Status of Women (GPO, 1963); *Report of the Task Force on Labor Standards*, Citizens' Advisory Council on the Status of Women (GPO, 1968); *Report of the Task Force on Family Law and Policy*, CACSW (GPO, 1968). See also, Kanowitz, *Women and the Law: The Unfinished Revolution*, U. of N.M. Press, 1969.

[5] See, e.g., Calif. Code Civ. Proc., §§ 1 124.050.

[6] See, e.g., Code of Ga. Annot., §§ 49– § 5.

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4. Discrimination in employment by State and local governments;
5. Dual pay schedules for men and women public school teachers;
6. State laws providing for alimony to be awarded, under certain circumstances, to ex-wives but not to ex-husbands;
7. State laws placing special restrictions on the legal capacity of married women or on their right to establish a legal domicile;
8. State laws that require married women but not married men to go through a formal procedure and obtain court approval before they may engage in an independent business;[5]
9. Social Security and other social benefits legislation which give greater benefits to one sex than to the other;
10. Discriminatory preferences, based on sex, in child custody cases;
11. State laws providing that the *father* is the natural guardian of the minor children;[6]
12. Different ages for males and females in (a) child labor laws, (b) age for marriage, (c) cutoff of the right to parental support, and (d) juvenile court jurisdiction;
13. Exclusion of women from the requirements of the Military Selective Service Act of 1967;
14. Special sex-based exemptions for women in selection of State juries;
15. Heavier criminal penalties for female offenders than for male offenders committing the same crime.

Although it is possible that these and other discriminations might eventually be corrected by legislation, legislative remedies are *not* adequate substitutes for fundamental constitutional protection against discrimination. Any class of persons (i.e., women) which cannot successfully invoke the protection of the Constitution against discriminatory treat-

[5] See, e.g., Calif. Code Civ. Proc., §§ 1811–1819; Nev. Rev. Stats., §§ 124.010—124.050.

[6] See, e.g., Code of Ga. Annot., §§ 49–102—49–104; Okla. Stats. Annot., tit. 10, § 5.

ment is by definition comprised of "second class citizens" and is inferior in the eyes of the law.

The Position of Women Under Existing Constitutional Provisions

The Fourteenth Amendment to the U.S. Constitution provides that no State shall "deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." The Federal government is similarly restricted from interfering with these individual rights, under the "due process clause" of the Fifth Amendment.

During the past century, women have been largely unsuccessful in seeking judicial relief from sex discrimination in cases challenging the constitutionality of discriminatory laws under these provisions. As the Committee on Civil and Political Rights, President's Commission on the Status of Women, noted in its 1963 Report:

> In no 14th amendment case alleging discrimination on account of sex has the United States Supreme Court held that a law classifying persons on the basis of sex is u[n]reasonable and therefore unconstitutional.[7]

In 1874, the Supreme Court held that the privileges and im[m]unities of citizens of the United States, protected from abridgment by the States under the Fourteenth Amendment, did not confer upon women the right to vote, although the Court conceded that women were persons and citizens within the meaning of the amendment.[8] Similarly, the privileges and immunities clause was held not to confer on women the right to practice law.[9]

The constitutionality of State laws regulating the employment of women (but not men) was upheld in a number of cases brought between 1908 and 1937: maximum hours laws,[10] laws prohibiting night work for women,[11] and laws requiring [12] 1948, the Court upheld a Michi[gan] exceptions) the licensing of wome[n]

A Florida law providing that wo[men] unless she registers with the clerk [of] not violative of the Fourteenth Am[end] recently, a three-judge Federal cou[rt] excluding women from jury servic[e] the Fourteenth Amendment, statin[g]

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> . . . The Alabama statute t[hat] serve on juries . . . violates t[he] Amendment to the Constitu[tion] forbids any state to "deny to a[ny] the equal protection of the [laws] constitutional provision is t[o] before the law. This mean[s] citizens—including women. [...] 401, 408 (M.D. Ala., 196[6])

In *Abbot* v. *Mines*, 411 F. 2d 35[3] a case in which the trial judge ha[d] panel because the evidence in th[e] cancer of the male genitals. The [...]

[7] GPO, 1963, p. 34.
[8] *Minor* v. *Happersett*, 21 Wall. 162, 168.
[9] *Bradwell* v. *State*, 16 Wall. 130 (1872); *In re Lockwood*, 154 U.S. 116 (1894).
[10] *Muller* v. *Oregon*, 208 U.S. 412 (1908); *Riley* v. *Massachusetts*, 232 U.S. 671 (1914); *Miller* v. *Wilson*, 236 U.S. 373 (1915); *Busley* v. *McLaughlin*, 236 U.S. 385 (1915).
[11] *Radice* v. *New York*, 264 U.S. 292 [...]
[12] *West Coast Hotel Co.* v. *Parrish*, 3[00] *Children's Hospital*, 261 U.S. 525 [...]
[13] *Goesaert* v. *Cleary*, 335 U.S. 464 [...]
[14] *Hoyt* v. *Florida*, 368 U.S. 57 (196[1])

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for women,[11] and laws requiring a minimum wage for women.[12] In 1948, the Court upheld a Michigan law prohibiting (with certain exceptions) the licensing of women as bartenders.[13]

A Florida law providing that women not be called for jury service unless she registers with the clerk of court her desire to serve was held not violative of the Fourteenth Amendment in 1961.[14] However, more recently, a three-judge Federal court in Alabama held that State's law excluding women from jury service violated the rights of women under the Fourteenth Amendment, stating:

> The Constitution of the United States must be read as embodying general principles meant to govern society and the institutions of government as they evolve through time. It is therefore this Court's function to apply the Constitution as a living document to the legal cases and controversies of contemporary society.
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> * * * * * *
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> . . . The Alabama statute that denies women the right to serve on juries . . . violates that provision of the Fourteenth Amendment to the Constitution of the United States that forbids any state to "deny to any person within its jurisdiction the equal protection of the laws." The plain effect of this constitutional provision is to prohibit prejudicial disparities before the law. This means prejudicial disparities for all citizens—including women. *White* v. *Crook,* 251 F. Supp. 401, 408 (M.D. Ala., 1966).

In *Abbot* v. *Mines,* 411 F. 2d 353 (C.A. 6, 1969) the Court reversed a case in which the trial judge had dismissed women jurors from the panel because the evidence in the case required testimony concerning cancer of the male genitals. The Court of Appeals stated:

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[11] *Radice* v. *New York,* 264 U.S. 292 (1924).
[12] *West Coast Hotel Co.* v. *Parrish,* 300 U.S. 379 (1937), overruling *Adkins* v. *Children's Hospital,* 261 U.S. 525 (1923).
[13] *Goesaert* v. *Cleary,* 335 U.S. 464 (1948).
[14] *Hoyt* v. *Florida,* 368 U.S. 57 (1961).

> It is common knowledge that society no longer coddles women from the very real and sometimes brutal facts of life. Women moreover, do not seek such oblivion. . . .
>
> The District Judge's desire to avoid embarrassment to the women jurors is understandable and commendable but such sentiments must be subordinated to constitutional mandates. 411 F. 2d at 355.

As recently as ten years ago, the Supreme Court declined to hear a case in which the Texas Court of Civil Appeals had upheld the exclusion of women from a State college, Texas A. & M.[15]

In February 1970 a three-judge Federal court dismissed as "moot" a class action in which women sought to desegregate various all male and all female public institutions of higher learning in the State of Virginia. However, the Court had previously ordered the University to consider without regard to sex the women plaintiffs' applications for admission to the University of Virginia at Charlottesville and to submit a three-year plan for desegregating the University at Charlottesville. *Kirstein et al* v. *The Rector and Visitors of the University of Virginia, etc., et al.* (E.D. Va., Richmond Div. Civil No. 220–69–R).

Although there are very few female criminals as compared to male criminals, some laws provide for longer prison terms for women than men committing the same crime. Such laws in Pennsylvania and Connecticut have been held to be inconsistent with the equal protection guarantees of the Fourteenth Amendment.[16]

Thus, in at least two areas—jury service and criminal penalties—women appear to have made progress in invoking the protection of the Fourteenth Amendment. Although jury service is important as a practical matter it is hardly central to the lives of women. Criminal penalties are of real significance to only a very few women. Moreover,

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[15] *Allred* v. *Heaton,* 336 S.W. 2d 251 (1960), appeal dismissed and cert. denied, 364 U.S. 517, rehearing denied, 364 U.S. 944; see also *Heaton* v. *Bristol,* 317 S.W. 2d 86 (1958), appeal dismissed and cert. denied, 359 U.S. 230, rehearing denied, 359 U.S. 999.

[16] *Commonwealth* v. *Daniel,* 430 Pa. 642, 243 A. 2d 400 (1968); *U.S. ex rel. Robinson* v. *York,* 281 F. Supp. 8 (D. Conn., 1968).

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243 A. 2d 400 (1968); *U.S. ex rel.*
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the court decisions have not wiped out discrimination even in these areas. The *Kirstein* case noted above represents some progress in an area vital to women—education, but the extent to which women may insist on equal educational opportunities under the Constitution still remains unclear.

Different treatment of men and women for purposes of computing social security benefits has been held not to violate the right to due process and equal protection of the laws. *Gruenwald* v. *Gardner,* 390 F. 2d 591 (C.A. 2, 1968), cert. denied, 393 U.S. 982. The Court of Appeals stated that "the trend of authority makes it clear that the variation in amounts of retirement benefits based upon differences in the attributes of men and women is constitutionally valid." The Court also stated:

> There is here a reasonable relationship between the objective sought by the classification, which is to reduce the disparity between the economic *and physical* capabilities of a man and a woman—and the means used to achieve that objective in affording to women more favorable benefit computations. There is, moreover, nothing arbitrary or unreasonable about the application of the principle underlying the statutory differences in the computations for men and women. Notwithstanding the favorable treatment granted to women in computing their benefits, the average monthly payments to men retiring at age 62 still exceeds those awarded women retiring at that age. 390 F. 2d at 592. (Emphasis supplied)

In a case involving a violation of the Military Selective Service Act of 1967, the defendant raised the issue of sex discrimination, charging that since men but not women are compelled to serve in the Armed Forces, his rights to due process of law under the Fifth Amendment were violated. *United States* v. *St. Clair,* 291 F. Supp. 122 (S.D. N.Y., 1968). The Court stated:

> In the Act and its predecessors, Congress made a legislative judgment that men should be subject to involuntary induction but that women, presumably because they are "still regarded as the center of home and family life" (*Hoyt* v.

State of Florida, . . .), should not. Women may constitutionally be afforded "special recognition" (cf. *Gruenwald* v. *Gardner,* . . .) particularly since women are not excluded from service in the Armed Forces. . . .

In providing for involuntary service for men and voluntary service for women, Congress followed the teachings of history that if a nation is to survive, *men must provide the first line of defense while women keep the home fires burning.* 291 F. Supp. at 124–5. (Emphasis supplied)

In two recent cases, women sought to enjoin State officials from enforcing special restrictions on the hours of work of women on the ground that such laws violate their rights to due process and equal protection of the law under the Fourteenth Amendment. The three-judge Federal courts (convened pursuant to 28 U.S.C. 2281, 2284) held that the constitutional issue was insubstantial and that the three-judge court lacked jurisdiction.[17] The women argued that because of the State restrictive laws, they were deprived of opportunities for better paying jobs and overtime pay.

The President's Commission on the Status of Women stated in its 1963 report, *American Women,* that it was—

> convinced that the U.S. Constitution now embodies equality of rights for men and women. . . . But judicial clarification is imperative in order that remaining ambiguities with respect to the constitutional protection of women's rights be eliminated. Early and definitive court pronouncement, particularly by the U.S. Supreme Court, is urgently needed with regard to the validity under the 5th and 14th amendments of laws and official practices discriminating against women, to the end that the principle of equality become firmly established in constitutional doctrine. (GPO, page 45)

The position of women under the Constitution remains ambiguous in 1970.

[17] *Mengelkoch* v. *Industrial Welfare Commission,* 284 F. Supp. 950, 956 (C.D. Calif., 1968), three-judge order vacated, 393 U.S. 83, rehearing denied, 393 U.S. 993, appeal pending in the Ninth Circuit; *Ward* v. *Luttrell,* 292 F. Supp. 162, 165 (E.D. La. 1968).

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Relationship Between the Equal Rights Amendment and Existing Constitutional Provisions

It is, of course, possible that the 5th and 14th amendments will in the future be interpreted by the courts as prohibiting all sex distinctions in the law. Nothing in the proposed equal rights amendment would preclude this from occurring; the amendment would in no way cut back, modify, or qualify any protection against discrimination based on sex which may be afforded by the 5th and 14th amendments. As pointed out in Story, *Commentaries on the Constitution of the United States* (5th Edit, §§ 1938, 1939):

> The securities of individual rights, it has often been observed, cannot be too frequently declared, nor in too many forms of words; nor is it possible to guard too vigilantly against the encroachments of power, nor to watch with too lively a suspicion the propensity of persons in authority to break through the "cobweb chains of paper constitutions." . . .
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> Conceding, therefore, that if correctly construed, and applied according to their true intent and meaning, other constitutional provisions, State and national, might afford ample security for individual rights, we may nevertheless pardon the anxiety for further prohibitions, and concede that, even if wholly needless, the repetition of such securities may well be excused so long as the slightest doubt of their having been already sufficiently declared shall anywhere be found to exist.

The proposed amendment would secure the right of all persons to equal treatment under the law without any distinction as to sex. If the protection against sex discrimination provided by the equal rights amendment should prove to be duplicative of protections afforded by enlightened interpretations of the 5th and 14th amendments, no harm would be done.

Supporters of the equal rights amendment believe that the potential of the 14th amendment is too unclear and that women's constitutional rights to equality are too insecure to rely exclusively on the possibility

of getting more enlightened court decisions under that amendment.

In a 1963 case, the Supreme Court stated:

> The Fifteenth Amendment prohibits a State from denying or abridging a Negro's right to vote. The Nineteenth Amendment does the same for women. . . . Once a geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote—whatever their race, whatever their sex. . . . This is required by the Equal Protection Clause of the Fourteenth Amendment. *Gray* v. *Sanders*, 372 U.S. 368, 379.

This interpretation of the 14th amendment reinforced and made doubly secure the right to vote. There are numerous cases in which the Supreme Court has interpreted the 14th amendment to reinforce or to extend rights guaranteed by earlier or, as in the above case, later amendments to the Constitution. For example, the more general due process and equal protection concepts of the 5th and 14th amendments have been used to strengthen more specific rights of individuals to freedom of speech, assembly and religion guaranteed by the First Amendment; and the right to a speedy trial and the right to counsel guaranteed by the Sixth.

If the equal rights amendment is adopted, the courts might well subsequently interpret the Fourteenth Amendment as reinforcing constitutional equality for women. Certainly this possibility does not justify further delay in approving the amendment.

Effect the Equal Rights Amendment Would Have on Laws Differentiating on the Basis of Sex

Constitutional amendments, like statutes, are interpreted by the courts in the light of intent of Congress. Committee reports on a proposal are regarded by the courts as the most persuasive evidence of the intended meaning of a provision. Therefore, the probable meaning and effect of the equal rights amendment can be ascertained from the Senate Judiciary Committee reports (which have been the same in recent years):

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"State action" would be the same as under the 14th amendment and as developed in 14th amendment litigation on other subjects.

2. Special restrictions on property rights of married women would be unconstitutional; married women could engage in business as freely as a member of the male sex; inheritance rights of widows would be same as for widowers.
3. Women would be equally subject to jury service and to military service, but women would not be required to serve (in the Armed Forces) where they are not fitted any more than men are required to so serve.
4. Restrictive work laws for women only would be unconstitutional (e.g. maximum hours, night work and weightlifting restrictions on women).
5. Alimony laws would not favor women solely because of their sex, but a divorce decree could award support to a mother if she was granted custody of the children. Matters concerning custody and support of children would be determined in accordance with the welfare of the children and without favoring either parent because of sex.
6. Laws granting maternity benefits to mothers would not be affected by the amendment, nor would criminal laws governing sexual offenses become unconstitutional (e.g. rape, prostitution).

Although the proposed amendment would specifically authorize the Congress and the States to enact implementing legislation, the amendment would be largely self-operative. The amendment is patterned after the 15th and 19th amendments, which required equal voting rights for Negroes and women, respectively. The 15th and 19th amendments did not render unconstitutional all State voting laws; they simply required the extension of voting rights to Negroes and women. The equal rights amendment would simply require that men and women be treated the same under the law. In some instances, like the 15th and 19th amendment, the effect of the amendment would be to strike the words of sex identification in the law rather than render it unconstitutional, thereby extending the rights under the law to both sexes. In other cases, where the law serves only to restrict, deny or limit the

freedoms or rights of one sex, such restrictions would not be extended to both sexes; the law would be rendered unconstitutional. In still other cases, the law is partially restrictive to persons of one sex in that age limitations are imposed differently on males and females.

Following is a five-point analysis of the impact the equal rights amendment will have on the various types of Federal and State laws which distinguish on the basis of sex:

1. Strike the Words of Sex Identification and Apply the Law to Both Sexes.

> Where the law confers a benefit, privilege or obligation of citizenship, such would be extended to the other sex, i.e. the effect of the amendment would be to strike the words of sex identification. Thus, such laws would not be rendered unconstitutional but would be extended to apply to both sexes by operation of the amendment, in the same way that laws pertaining to voting were extended to Negroes and women under the 15th and 19th amendments.

Examples of such laws include: laws which permit alimony to be awarded under certain circumstances to wives but not to husbands; social security and other social benefits legislation which give greater benefits to one sex than the other; exclusion of women from the requirements of the Military Selective Service Act of 1967 (i.e., women would be equally subject to military conscription).

Any expression of preference in the law for the mother in child custody cases would be extended to both parents (as against claims of third parties). Children are entitled to support from *both* parents under the existing laws of most States.[18] Child support laws would be affected only if they discriminate on the basis of sex. The amendment would not prohibit the requiring of one parent to provide financial support for children who are in the custody of the other.

2. Laws Rendered Unconstitutional by the Amendment.

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[18] *Reciprocal State Legislation to Enforce the Support of Dependents*, Council of State Governments, 1964, page 20.

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> Where a law restricts or denies opportunities of women or men, as the case may be, the effect of the equal rights amendment would be to render such laws unconstitutional.

Examples are: the exclusion of women from State universities or other public schools; State laws placing special restrictions on the hours of work for women or the weights women may lift on the job; laws prohibiting women from working in certain occupations, such as bartenders; laws placing special restrictions on the legal capacity of married women, such as making contracts or establishing a legal domicile.

3. Removal of Age Distinctions Based on Sex.

Some laws which apply to both sexes make an age distinction by sex and thereby discriminate as to persons between the ages specified for males and females. Under the foregoing analysis, the ages specified in such laws would be equalized by the amendment by extending the benefits, privileges or opportunities under the law to both sexes. This would mean that as to some such laws, the *lower* age would apply to both sexes. For example: a lower minimum age for marriage for women would apply to both sexes; a lower age for boys under child labor laws would apply to girls as well. In other words, the *privileges* of marrying or working would be *extended* and the sex discrimination removed.

As to other laws, the *higher* age would apply to both sexes. For example: a higher cut-off age for the right to paternal support for boys would apply to girls as well; a higher age for girls for juvenile court jurisdiction would apply also to boys. In these cases, the *benefits* of paternal support or juvenile court jursidiction would be *extended* to both sexes.

Thus, the test in determining whether these laws are to be equalized by applying the lower age or by applying the higher age to both sexes is as follows:

> If the age limitation restricts individual liberty and freedom the lower age applies; if the age limitation confers a right, benefit or privilege to the individuals concerned and does not limit individual freedom, the higher age applies.

4. Laws Which Could Not Possibly Apply to Both Sexes Because of the Difference in Reproductive Capacity.

Laws which, as a practical matter, can apply to only one sex no matter how they are phrased, such as laws providing maternity benefits and laws prohibiting rape, would not be affected by the amendment. The extension of these laws to both sexes would be purely academic, since such laws would not apply differently if they were phrased in terms of both sexes. In these situations, the terminology of sex identification is of no consequence.[19]

5. Separation of the Sexes.

> Separation of the sexes by law would be forbidden under the amendment except in situations where the separation is shown to be necessary because of an overriding and compelling public interest and does not deny individual rights and liberties.

For example, in our present culture the recognition of the right to privacy would justify separate restroom facilities in public buildings.

As shown above, the amendment would not change the substance of existing laws, except that those which restrict and deny opportunities to women would be rendered unconstitutional under the standard of point two of the analysis. In all other cases, the laws presently on the books would simply be equalized, and this includes the entire body of family law. Moreover, the amendment in no way would restrict the State legislature or the Congress in enacting legislation on any subject, since its only purpose and effect is to prohibit any distinction based on sex classification.

Objections to the Proposed Equal Rights Amendment

Objection: The equal rights amendment is not needed because women already have equal rights under the 5th and 14th amendments.

Answer: The extent to which women may invoke the protection of the due process and equal protection guarantees of the 5th and 14th amendments is unclear. In fact upheld sex distinctions in the provisions. Even if the 5th and construed so as to eliminate all rights amendment would simply treatment doubly secure.

Objection: If the amendment wer with litigation because the mean e.g., what are the various "rights" "equality" mean?

Answer: The equal rights amendt tion unless there were massiv amendment's requirement of eq that happened, it would only pro The "right" protected by the an *ment under the law*, whatever th distinction based on sex.

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[19] See Murray and Eastwood, "Jane Crow and the Law: Sex Discrimination and Title VII" 34 G.W.L. Rev. 232, 240–241 (1965).

amendments is unclear. In fact, some recent court decisions have upheld sex distinctions in the law, in spite of these constitutional provisions. Even if the 5th and 14th amendments are in future cases construed so as to eliminate all sex distinctions in the law, the equal rights amendment would simply make the individual's right to equal treatment doubly secure.

Objection: If the amendment were adopted the courts would be flooded with litigation because the meaning of the amendment is not clear; e.g., what are the various "rights" that would be protected? What does "equality" mean?

Answer: The equal rights amendment would not cause excessive litigation unless there were massive resistance to compliance with the amendment's requirement of equal treatment of men and women. If that happened, it would only prove the great need for the amendment. The "right" protected by the amendment is the right to *equal treatment under the law,* whatever the subject of the law may be, without distinction based on sex.

Objection: The amendment would render unconstitutional a wide variety of State laws which now treat men and women differently.

Answer: Some State laws—those which *deny* rights or restrict freedoms of one sex—would be violative of the equal rights amendment and rendered unconstitutional. Laws which *confer* rights, benefits and privileges on one sex would have to apply to both sexes equally, but would not be rendered unconstitutional by the amendment.

Objection: The amendment would require sweeping changes in laws pertaining to the family.

Answer: The amendment would simply require equality. In States where the law provides for alimony only for wives, courts could award alimony to husbands as well, under the same conditions as apply with respect to wives. (More than ⅓ of the States now permit alimony to be awarded to either spouse.) Mothers and fathers would both be legally responsible for the support of their children, as is generally the case under existing law.

Objection: The amendment would nullify special State protective labor laws for women, such as those governing limitations on hours of work,

weightlifting on the job, and prohibitions against night work, for women employees only.

Answer: This issue is fast becoming moot, because the Federal law (Title VII of the Civil Rights Act of 1964) prohibits sex discrimination in employment and requires employers covered by the Act to treat men and women equally. A number of States have already conceded that special restrictions on women may no longer be enforced.

Objection: Women would be equally subject to the draft.

Answer: This is true. Women do serve in the Armed Forces now, but on a volunteer basis. The amendment would also prohibit more stringent eligibility standards for women than for men volunteers.

Objection: The equal rights amendment would require equal rights and responsibilities for women under the law.

Answer: True.

[Where the term GPO is mentioned in the text or in footnotes, the documents are available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.]

Appendix B

THE EQUAL RIGHTS AMENDMENT— WHAT IT WILL AND WON'T DO

THE EQUAL RIGHTS AMENDMENTS. The proposed Equal Rights Amendment to the Constitution reads as follows:

> Equality of rights *under the law* shall not be denied or abridged by the United States or by any State on account of sex. (Emphasis supplied)

GENERAL EFFECT ON FEDERAL AND STATE LAWS AND OFFICIAL PRACTICES. The Equal Rights Amendment would not nullify all laws distinguishing on the basis of sex, but would require that the law treat men and women equally. Equal treatment can be accomplished either by extending the law which applies only to one sex to the other sex, or by rendering the law unconstitutional as denying equality of rights to one sex. The consideration of the ratification of the Equal Rights Amendment by the individual States will give ample opportunity and

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In interpreting the Equal Rights Amendment, the Courts will consider the intent of Congress, particularly the views expressed by the proponents of the Amendment. The following is a summary of effects the proposed amendment would have, as reflected in the House debate on the Amendment and in Senate reports in previous years.

ALIMONY, CHILD SUPPORT, AND CUSTODY LAWS. Present laws will not be invalidated. In those States where alimony is limited to women, men will become eligible under the same circumstances as women. The welfare of the child will be the criterion for child custody as it is in most States now. Provisions of law giving mothers (or fathers) preference will be inoperative.

The National Commissioners on Uniform State Laws recently adopted a Uniform Marriage and Divorce Act, the terms of which are in accord with the Equal Rights Amendment. It provides for alimony for either spouse (called "maintenance"), child support obligations for both spouses in accordance with their means, and custody based on welfare of the child.

It should be kept in mind that the great majority of divorce arrangements covering these areas are agreed to by the parties without litigation.

DOWER RIGHTS. Dower laws will not be nullified. Dower rights will be extended to men in those few States where men do not have a right in their wives' estates.

PROPERTY RIGHTS OF MARRIED WOMEN. Special restrictions on property rights of married women would be invalidated; married women could engage in business as freely as men and manage their separate property such as inheritances and earnings.

STATUS OF HOMEMAKER. Congresswoman Dwyer of New Jersey said on August 10 in the debate in the House of Representatives on the Equal Rights Amendment: "It would not take women out of the home. It would not down-grade the roles of mother and housewife. Indeed,

it would give new dignity to these important roles. By confirming women's equality under the law, by upholding women's right to choose her place in society, the equal rights amendment can only enhance the status of traditional women's occupations. For these would become positions accepted by women as equals, not roles imposed on them as inferiors." (116 Cong. Record, H. 7952)

STATE "PROTECTIVE" LABOR LAWS NOW APPLYING ONLY TO WOMEN. Minimum wage laws and rest period and lunch period laws will be extended to men. Laws prohibiting hours of work beyond a specified number, night work, employment in particular occupations, and weightlifting laws will be invalidated. There will probably not be any of the prohibitory laws in effect by the time the Equal Rights Amendment is ratified, as a result of Title VII of the Civil Rights Act of 1964. Leading court decisions, changes by State legislatures, rulings by State Attorneys General, and guidelines of the Equal Employment Opportunity Commission all clearly point in this direction.

The Equal Rights Amendment would not prohibit special maternity benefits. Furthermore, only Puerto Rico gives any special benefit and its terms may discourage employers from hiring women. In fact, laws in several States *prohibit* employment of women during specified periods before and after childbirth but do not require reemployment or even require employers to give any of the benefits given for other forms of temporary disability. Two States have temporary disability insurance plans that include benefits for loss of employment due to childbirth along with other types of temporary disability, but this is not a special benefit.

EMPLOYMENT. The Equal Rights Amendment would restrict only governmental action and would not apply to purely private action. *It would not affect private employment;* it would prohibit discrimination by Government as an employer—Federal, State, County, and City, including school boards. One of the largest group of employees affected are teachers, professors, and other employees of public schools and State institutions of higher education. It would require equal pay for equal work only for employees of Government. The coverage of private employees under present equal pay laws would not be extended or otherwise modified.

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EDUCATION. The Equal Rights Amendment would prohibit restriction of public schools to one sex and it would prohibit public institutions from requiring higher admission standards for women (or men in case any exist).

FEDERAL SOCIAL SECURITY. The Equal Rights Amendment would extend to widowers of covered women workers the benefits now provided only to widows of covered men workers. For example, widowers with minor children would receive a benefit based on their deceased wife's employment under the same circumstances a widow with minor children would receive.

A man retiring at age 62 would have his benefit computed under the same formula as a woman retiring at 62. (This particular inequity would be corrected by the Social Security Act Amendments that passed the House of Representatives this session and are now pending in the Senate.)

OTHER GOVERNMENTAL PENSION AND RETIREMENT PLANS. Any preference in treatment given to one sex or to survivors of one sex would be extended to the other sex. The Equal Rights Amendment would have no bearing on private pension and retirement plans. Many are now covered by Title VII of the Civil Rights Act of 1964.

MILITARY SERVICE AND JURY SERVICE. Women would be subject to jury service and military service under the same conditions as men. Women with children in their personal care could be excused from either obligation just as men could be under the same circumstances. Being subject to military service would not necessarily mean they would have to serve in all assignments any more than all men serve in all assignments. Women volunteers would have to be admitted under the same standards as men; they now have to meet higher standards. During World War II many thousands of women served, many of them in dangerous assignments. This Administration is making every effort to move to a volunteer service; the issue of the draft may, therefore, be moot by the time the Amendment is ratified.

CRIMINAL LAW. The Equal Rights Amendment would invalidate laws prescribing longer prison sentences for women than for men for the same offense (or vice versa, if such exist), different ages for treatment

as adults for purposes of criminal law, and laws permitting imprisonment of women who have not committed any offense. It would require equal opportunity for rehabilitation, including access to treatment for drug addiction and alcoholism. It would not affect laws relating to rape.

PSYCHOLOGICAL AND SOCIAL. The Equal Rights Amendment will directly affect only women's legal rights. It will not affect the social relationships between the sexes.

There are, however, intangible psychological benefits already accruing to women. The fight for the Equal Rights Amendment is forging a new solidarity among women that fosters self-confidence and the courage to use rights already theirs but not claimed because of fears.

Womens of all ages and political persuasion, all occupations, black and white, union women and business women, housewives and working women, have worked together with men to secure passage of the Equal Rights Amendment in the House of Representatives.

SOURCES:

Congressional Record, August 10, 1970, Debate on Equal Rights Amendment, beginning page #7947, Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, 36¢ per copy.

Citizens' Advisory Council on the Status of Women, Memorandum on Equal Rights Amendment, Washington, D.C. 20210. Single copies free.

Hearings on Equal Rights Amendment before Subcommittee on Constitutional Amendments of the Senate Judiciary Committee, May 5, 6, and 7, 1970. Not yet published; write Subcommittee, U.S. Senate, Washington, D.C. 20510.

Susan Deller Ross, "Sex Discrimination and 'Protective' Labor Legislation," single copies available from Citizens' Advisory Council on the Status of Women.

The Report of the President's Task Force on Women's Rights and Responsibilities, *A Matter of Simple Justice*, April 1970. Single copies available from the Citizens' Advisory Council on the Status of Women.

National Conference of Commissioners on Uniform State Laws, "Uniform Marriage and Divorce Act," 1155 East 60th Street, Chicago, Illinois 60637, August 14, 1970.

Speech by Senator Marlow Cook on August 25, 1970, in the Senate, Vol. 116, No. 148, Cong. Rec., p. S 14213.

August 28, 1970

Appendix C

STATEMENT ON BAYH SUBSTITUTE AMENDMENT TO THE EQUAL RIGHTS

The Citizens' Advisory Council on the Status o rejects the proposed substitute to the Equal Rig the following reasons:

1. The Bayh substitute negates the purpose Amendment, which is to guarantee compl men and women under the Constitution.
2. The substitute implies that women are p scope of the 5th and 14th Amendments.
3. The proposed substitute would lend cr Court interpretations that sex is a reas for legal purposes and the very unreason classification has been a major factor Equal Rights Amendment. Women shoul for special treatment in the law under *an* whether it be the test of "reasonablenes and overriding public interest."
4. The substitute would in effect encourag nation against women in the law by discretion to decide when and where and treated as second class citizens.
5. The purpose of the substitute as expres ponent is unclear. Is it the intent of th extend the restrictive hours and weightl If so, such would be contrary to Federal Title VII of the Civil Rights Act of 1964

The Council renews its support of H.J. Res. 264 in their original form without any amendments of a in the House-passed Equal Rights Amendm approval in this Congress.

For the following reasons we reject the amendm which would exempt women from the draft: T

Appendix C

STATEMENT ON BAYH SUBSTITUTE AND ERVIN AMENDMENT TO THE EQUAL RIGHTS AMENDMENT

The Citizens' Advisory Council on the Status of Women strongly rejects the proposed substitute to the Equal Rights Amendment for the following reasons:

1. The Bayh substitute negates the purpose of the Equal Rights Amendment, which is to guarantee complete legal equality of men and women under the Constitution.
2. The substitute implies that women are presently beyond the scope of the 5th and 14th Amendments. This is not true.
3. The proposed substitute would lend credence to Supreme Court interpretations that sex is a reasonable classification for legal purposes and the very unreasonableness of such a classification has been a major factor in the drive for the Equal Rights Amendment. Women should not be singled out for special treatment in the law under *any* constitutional test whether it be the test of "reasonableness" or a "compelling and overriding public interest."
4. The substitute would in effect encourage continued discrimination against women in the law by allowing the courts discretion to decide when and where and how women may be treated as second class citizens.
5. The purpose of the substitute as expressed by the chief proponent is unclear. Is it the intent of the chief proponent to extend the restrictive hours and weightlifting laws to men? If so, such would be contrary to Federal court decisions under Title VII of the Civil Rights Act of 1964.

The Council renews its support of H.J. Res. 264 and/or S.J. Res. 61 in their original form without any amendments of any kind. Any change in the House-passed Equal Rights Amendment would preclude approval in this Congress.

For the following reasons we reject the amendment to H.J. Res. 264 which would exempt women from the draft: There are benefits to

individuals, usually ignored, which derive from voluntary and compulsory military service. The opportunities for education and training afford our young people advantages for upward mobility instead of being locked into any particular economic stratum. Forty-one thousand women are now serving in the military.

The young women of this country should not be denied the opportunity for complete training for the defense of themselves and their families, and for the preservation of their homes and their country.

The Equal Rights Amendment (H.J. Res. 264—S.J. Res. 61), if adopted, will provide a new constitutional mandate to give women the legal equality due them. Failure to approve the Amendment in this Congress would be a denial of "a matter of simple justice."

Adopted October 29, 1970

November 3, 1970

NOTE: The Council's statement was prepared before Senator Bayh's press release of November 2, 1970. Nevertheless, the only part that may be inapplicable to the latest proposal for a substitute is the first sentence of Item No. 3.

Appendix D

JOB-RELATED MATERNITY BENEFITS

The Council adopted the following *Statement of Principles* on October 29, 1970:

> Childbirth and complications of pregnancy are, for all *job-related purposes,* temporary disabilities and should be treated as such under any health insurance, temporary disability insurance, or sick leave plan of an employer, union, or fraternal society. Any policies or practices of an employer or union, written or unwritten, applied to instances of temporary disability other than pregnancy should be applied to incapacity due to pregnancy or childbirth, including policies or practices relating to leave of absence, restoration or recall to duty, and seniority.
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> No additional or different benefits or restrictions should be applied to disability because of pregnancy or childbirth, and

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no pregnant woman employee should be in a better position in relation to job-related practices or benefits than an employee similarly situated suffering from other disability.

GENERAL BACKGROUND

1. There is now no uniformity of treatment for disability because of pregnancy under existing job-related insurance and leave with pay systems providing protection against medical costs and/or loss of income due to temporary disability. In the United States absences from employment necessitated by childbirth or complications of pregnancy are sometimes covered by job-related temporary disability insurance and/or sick leave plans. Sometimes such absences are excluded from such plans or included with special limits. Job-related health insurance plans may cover hospital and/or other medical costs associated with pregnancy; may cover such costs with special limitations; or may not cover maternity costs at all. Sometimes employees have reemployment rights after absence of a given number of weeks due to pregnancy; sometimes pregnancy is reason for discharge.

   Considerable interest has been evidenced in this subject by public and private employers and unions in recent months. The Council hopes, in answer to requests, that it may be of service by suggesting what seems to us to be the most equitable and reasonable approach under our present system of private and government social benefits.

2. There are no Government data available on the extent to which medical costs of childbirth are covered in private health insurance programs; nor are there any data available on the extent to which loss of income due to absence because of childbirth is covered by private sick leave or temporary disability insurance programs.

FEDERAL SOCIAL SECURITY SYSTEM

3. The Federal social security system of the United States does not have a national health program or insurance against loss of income for employed persons who are unable to work because of temporary disability. European countries provide maternity benefits within such a framework. In no European country does an employer

pay a higher contribution for female employees than for male employees.[1]

FEDERAL GOVERNMENT EMPLOYEES

4. The Federal government has for its own employees a sick leave system providing 13 days of sick leave at full pay per year, which may be accumulated without limit. Sick leave, vacation leave, and leave without pay may be used for absences due to pregnancy. Government employees have the option, with the Government sharing in the cost, of subscribing to a variety of health insurance plans, all of which include costs of delivery and pre-natal care in their family plan coverage.

   Some State governments have sick leave systems, which may or may not cover absences because of childbirth.

TEMPORARY DISABILITY INSURANCE

5. Insurance against loss of income for employed persons unable to work temporarily because of disability is usually called "temporary disability insurance;" it may be government-sponsored or provided by employers, unions, or fraternal groups. Temporary disability insurance usually provides for less than full pay for maximum periods of about 26 weeks. Sick leave plans ordinarily provide full pay for short periods each year, with some plans permitting accumulations of unused leave from year to year.

6. Government-sponsored temporary disability insurance systems exist in California, Hawaii, New Jersey, New York, Rhode Island, and Puerto Rico. The railroad industry also has a temporary disability insurance system administered by the Railroad Retirement Board. These systems are financed solely by employee contributions or by joint employer-employee contributions.

   Of the State laws, only those of New Jersey and Rhode Island require payment of benefits for a normal delivery, and they put limitations on these benefits which [illegible] disabilities.[2] Cases of abnormal de[liveries]

7. Some employers and some State ten[itories] childbirth as a temporary disability [and] physiological condition." The Coun[cil] of employment it is a temporary di[sability] no difference whether an employee [leaves] job because of pregnancy or becaus[e of] illness or accident; in any case he [or she] has extra medical expenses.

   The notion that pregnancy is a "n[on-occupational]" has been advanced as a reason fo[r not] vided for temporary disabilities an[d] providing leaves of absence not p[aid]. Since there are no existing system[s] absence or insurance benefits for "n[on-occupational]" a variety of policies for this special[ity] create an inequity between benefit[s] pregnancy and benefits because of [other] A woman about to give birth is te[mporarily] under the care of a physician, and [is]

SPECIAL BENEFITS

8. The Council considered whether sp[ecial] provided for other temporary disa[bilities] women are subject to all the othe[r] be argued that additional benefits [are] line of reasoning treats women as [a] differences. The essence of the fa[ir] vidual rather than class treatment

[1] U.S. Department of Health, Education, and Welfare, Social Security Administration: *Social Security Programs throughout the World–1969*, Research Report No. 31, pp. 10, 14, 22, 58, 62, 72, 74, 80, 86, 98, 110, 114, 136, 154, 164, 176, 178, 180, 196, 202, 204, 218, 226, and 242.

[2] Those interested in further details on temp[orary] should see the Citizens' Advisory Council [on] the Task Force on Social Insurance and T[axation] also U.S. Department of Labor, "Comparis[on] Laws," BES No. U–141, Rev. August 1970

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limitations on these benefits which are not applicable to other disabilities.[2] Cases of abnormal delivery are usually covered.

7. Some employers and some State temporary disability systems treat childbirth as a temporary disability and some consider it a "normal physiological condition." The Council concluded that for purposes of employment it is a temporary disability. Economically it makes no difference whether an employee is unable to work at his regular job because of pregnancy or because of hernia, ulcers, or any other illness or accident; in any case he or she suffers loss of pay and has extra medical expenses.

   The notion that pregnancy is a "normal physiological condition" has been advanced as a reason for denying women benefits provided for temporary disabilities and occasionally as a reason for providing leaves of absence not provided for other disabilities. Since there are no existing systems or guides for giving leave of absence or insurance benefits for "normal physiological conditions," a variety of policies for this special category result. Some of these create an inequity between benefits because of disability due to pregnancy and benefits because of all other temporary disabilities. A woman about to give birth is temporarily disabled for work, is under the care of a physician, and is usually hospitalized.

SPECIAL BENEFITS

8. The Council considered whether special benefits for maternity not provided for other temporary disabilities are ever justified. Since women are subject to all the other disabilities of mankind, it can be argued that additional benefits are needed for pregnancy. This line of reasoning treats women as a class and ignores individual differences. The essence of the fair employment concept is individual rather than class treatment.

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[2] Those interested in further details on temporary disability insurance in the U.S. should see the Citizens' Advisory Council on the Status of Women, Report of the Task Force on Social Insurance and Taxes, p. 8 et seq. and p. 45 et seq.; also U.S. Department of Labor, "Comparison of State Unemployment Insurance Laws," BES No. U–141, Rev. August 1970.

Individual women who are not pregnant and individual men may be absent more in a given period of time because of temporary disabilities than women who are having babies during that period. The 1961 survey of the Civil Service Commission of sick leave usage by Federal employees shows small differences in the percentages of men and women having zero sick leave balances and negative sick leave balances (those who have been advanced sick leave), indicating that the present system is inadequate for a small percentage of both men and women.

Annual Public Health Service surveys show that women and men lose about the same amount of time from work because of acute disabilities, including childbirth and complications of pregnancy. In 1968, men averaged 5.2 days per year and women 5.9 days per year; in 1967 it was 5.3 and 5.6 days per year.

Giving special treatment for pregnancy will inevitably lead to situations in which men and other women who are suffering from disabilities other than pregnancy will have less benefits than pregnant women. This is not sociologically or economically justified and would be divisive. In addition, in the United States where the employer frequently pays all or part of the cost of such benefits, such policies could very well result in reluctance to hire women of childbearing age.

Appendix E

REPORT OF THE SUBCOMMITTEE ON COUNSELING AND CONTINUING EDUCATION

RECOMMENDATIONS ON COUNSELING WOMEN AND GIRLS

With rising numbers of women in our Nation assuming the dual responsibilities of homemaking and employment, there is a growing urgency to ensure the cooperation of educators and counselors in providing young girls with a realistic picture of their probable life pattern and understanding of the wide range of vocational possibilities before them. Much of the vocational counseling which girls and women receive is inadequate and obsolete. It fails to recognize the importance of three major factors: (1) the multiple roles of women in modern society (40 percent of married women work), (2) the emergence of

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work), (2) the emergence of broader employment horizons for women, and (3) the strategic value to a young girl as well as a young boy of long-range planning and preparation for job futures consistent with individual abilities and interests.

Concern over population growth makes it advisable that there be more opportunity for women to pursue worthwhile careers.

In order to help update and strengthen vocational guidance and counseling available for women and girls, we recommend that:

1. The Office of Education should assert leadership in upgrading the prestige and influence of vocational guidance and counseling by providing curriculum materials, information, and technical assistance aimed at improving and extending counseling and guidance programs in the public school system. The horizon of the disadvantaged child, both urban and rural, should be widened beyond his or her environment, so that the child is aware that there are many types of work in today's economy about which his parents and immediate associates may know little.

   To reinforce support of the policy of equal opportunity, the Office of Education should give women significant representation among its own professional and administrative staff.

2. The Office of Education should stimulate colleges to increase their enrollment in counseling and to offer courses for both counselors and teachers which present realistic information about the multiple roles that girls will have in life, emphasizing the need for girls to obtain adequate preparation for their probable work role and the importance of their considering the full range of present and emerging occupations for which they can choose according to their interests, abilities, and temperament.

3. The Office of Education, in its support of counselor and teacher preparation and upgrading, should encourage consideration of the special counseling needs of women and girls in elementary and secondary schools as well as in institutions of higher education. Such encouragement should be directed toward enabling presently employed counselors to update their outlook and incor-

porate current and realistic information about women's counseling needs and career opportunities into their operating policies and practices.

4. Citizens who are interested in improving the quality of counseling and guidance provided women and girls should be made aware of the fact that Federal law requires that each State Board for Vocational Education hold a public hearing before the State's vocational education plan may be submitted to the U.S. Commissioner of Education for approval. Concerned individuals and organizations should, therefore, contact the Director of their State vocational education agency to learn the time and place of the public hearing so that they can present their views regarding the expenditure of Federal funds allotted to their State for vocational education purposes. The State Commission on the Status of Women might be the appropriate group to coordinate publicity on such hearings.

5. The Office of Education should promote programs which further acceptance of vocational guidance and counseling both as a profession and as a responsibility of the total school staff. Presently employed secondary school teachers often serve as ad hoc counselors to their students and should become aware of career opportunities for women relating to the subject areas they teach. Teachers should be encouraged to integrate career development experiences in their regular curriculum offerings. An important aim is to improve the cooperation between teachers and counselors in the counseling process.

6. The Office of Education or appropriate State agency should conduct or update surveys of elementary and secondary schools in the Nation to determine how many schools and/or course offerings are restricted to one sex, what admission or other requirements or circumstances discourage entry of girls or boys to classes theoretically open to them, and what positive efforts are being carried on to attract girls or boys into courses once considered inappropriate for them.

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7. The Office of Education should examine the testing tools used in advising boys and girls and determine whether the tools being used to counsel give sufficient attention to the full range of talents and potentialities of both boys and girls and whether boys and girls are encouraged to consider all professional fields, not only those considered appropriate to their sex.

8. Professional associations such as the National Education Association, the American Personnel and Guidance Association, and the Parent-Teachers Association should be encouraged to finance or to stimulate others to finance short-term courses and/or conferences concerning the work and life roles of modern women, women's employment status and problems, and employment opportunities, as already is being done by the Business and Professional Women's Foundation.

9. Additional Federal funds should be provided to the Department of Labor for strengthening and expanding counseling services in public employment offices to enable special counseling services for mature women to be developed in all local offices under national guidelines and a national program titled Operation Reentry. The benefits would be greater utilization of the talents and energies of mature women interested in returning to the work force—as a result of the availability of special counseling services adapted to their special needs and the use of widespread publicity to report the existence of these services in every public employment office. A concomitant benefit may be a slow-down in population growth as more women elect to work rather than have additional children.

10. The State Commissions on the Status of Women should be commended for their concern and activities to achieve equal educational opportunities for women and girls. It is hoped that these recommendations will be helpful to them in reviewing the current status of counseling and continuing education in the individual States and in stimulating action for further improvements.

ERIC Clearinghouse
SEP 13 1971
on Adult Education

The Citizens' Advisory Council on the Status of Women whose members are appointed by the President serve without compensation. The views expressed by the Council cannot be attributed to any Federal agency.